IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWENTY SECOND DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE B.PRAKASH RAO

WRIT PETITION NOs.15078, 7784 and 779 of 2004 and 26603 of 2003

1.W.P.No.15078 of 2004

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Between:

K. Nalini, D/o. K. Gopala Krishna Pillai, 39 years,
R/o. C-28, MIG, Ist Phase, First Floor, Vanasthalipuram, Hyderabad - 670.

...PETITIONER

AND

1. The Depot Manager, APSRTC, Chittoor-I Depot, Chittoor, Chittoor District.
2. K.Chandra Shekarlu, Assistant Manager (Enquiries), Regional Manager's Office, APSRTC, Tirupati Chittoor District..
3. The Managing Director, APSRTC, Azamabad, Musheerabad, Hyderabad.

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue Writ or order or directions more particularly one in the nature of Writ of Mandamus declaring the action of the first Respondent in appointing the 2nd Respondent as fresh enquiry officer once again to conduct fresh enquiry in the charge sheet No.02/95 (120)/2002/CTR-1, dated 23.07.2002 in spite of the first Enquiry Officer's Report No.A1/(T)/Enq(58)/2002-RM(T) dated 18.11.2003 and Removal Order No.02/95(120)/2002-CTR-1, dated 31.12.2003 of the first

Respondent are suspended and subjudized in this Hon'ble Court in W.P.No.26603 of 2003 and W.P.No.779/2004 as illegal, arbitrary and violative of Articles 14 and 16 of the Constitution of India and consequently direct the Respondent not to proceed with the enquiry till final disposal of the earlier Writ Petitions.

Counsel for the Petitioner: MR.J.M.NAIDU

Counsel for the Respondents: MR.P.VINAYAKA SWAMY

2.WRIT PETITION No.7784 of 2004

Between:

K. Nalini D/o. K. Gopala Krishna Pillai, 39 years,
I.P. Joel, APSRTC Workers Education Association, 11-4-288, Chilakalaguda, Secunderabad. (Presently known as APSRTC Employees & Workers Union, Regd. No. H-10)

...PETITIONER

AND

1. The Depot Manager, APSRTC, Chittoor-I Depot, Chittoor, Chittoor District.
2. The Assistant Manager (Enquiries), Regional Manager's Office, APSRTC, Tirupati, Chittoor District.
3. The Managing Director, APSRTC, Azamabad, Musheerabad, Hyderabad.

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue writ or order or direction more particularly one in the nature of writ of mandamus declaring the action of the Respondents in not permitting the petitioner to perform her duties in spite of suspension of removal order passed in proceedings No.02/95/120)/2002-CTR-1, dated 31.12.2003 of the first Respondent is illegal, arbitrary and violative of Articles 14 and 15 of the Constitution of India and consequently direct the Respondents to permit her (Petitioner) to perform the duties of conductor.

Counsel for the Petitioner: MR.J.M.NAIDU

Counsel for the Respondents: MR.P.VINAYAKA SWAMY

3.WRIT PETITION No.779 of 2004

Between:

K.Nalini, D/o K.Gopalakrishna Pillay, 39 years,

R/o H.No.28-1408, Gangannapally, Chittoor, Chittoor District, C/o I.P.JOEL, APSRTC Workers Education Association, 11-4-288, Chilakalaguda, Secunderabad.

...PETITIONER

AND

1. The Depot Manager, APSRTC, Chittoor-I Depot, Chittoor, Chittoor District.
2. The Assistant Manager (Enquiries), Regional Manager's Office, APSRTC, Tirupati, Chittoor District.

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue writ or order or direction more particularly one in the nature of writ of mandamus declaring the action of the 1st respondent in passing removal order vide Proceedings No.02/95(120)/02, CTR-I, dt.31.12.2003 in spite of Suspension of the Proceedings no.02/95(120)/02-CTR-I, dt.08.12.2003 of the 1st respondent directing the petitioner to submit her comments on the enquiry report vide proceedings no.A1(T)/Enq(58)/2002-RM(T), dt.18.11.2003 of the 2nd respondent by order, dt.23.12.2003 in W.P.M.P.No.33680 of 2003 in WP No.26603/2003 of this Hon'ble Court is illegal, arbitrary and violative of Articles 14 and 16 of the Constitution of India and consequently direct the respondents to re-conduct the enquiry duly setting aside the Removal Order passed in proceedings no.02/95(120)/2002-CTR-I, dated 31.12.2003 of the first respondent.

Counsel for the Petitioner: MR.J.M.NAIDU

Counsel for the Respondents: MR.P.VINAYAKA SWAMY

4.WRIT PETITION No.26603 of 2003

Between:

K. Nalini, d/o. K. Gopala Krishna Pilai, 39 years, Hindu, C/o. I.P. Joel, APSRTC Workers Educational Association,
11-4-288, Chilakalaugda, Secunderabad.

...PETITIONER

AND

1. The Depot Manager, APSRTC, Chittoor-I Depot, Chittoor, Chittoor District.
2. The Assistant Manager (Enquiries), Regional Manager's Office, APSRTC,

Tirupati, Chittoor District.

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue writ or order or direction more particularly one in the nature of writ of Mandamus declaring the action of 2nd Respondent in submitting the *ex parte* enquiry report vide Proceedings No. A1(T)/Enq(58)/2002-RM(T), dated 18.11.2003 after lapse of 10 months as if enquiry was completed on 04.01.2003 specifically when the 1st respondent filed counter in this Hon'ble Court in W.P.No.15684/2003 stating that enquiry has not been completed even in the month of September, 2003 and documents were directed to peruse vide proceedings No.02/95(120)/2003-CTR-I, dt: 18.02.2003 of the 1st respondent in pursuant to the direction of this Hon'ble Court in W.P.No.32526/2002, Dated 06.01.2003 and further action of the first Respondent directing the petitioner to submit her comments vide Proceedings No.02/95(120)/2003-CTR-I, dt: 08.12.2003 is illegal, arbitrary and violative of Articles 14 and 16 of the Constitution of India and consequently direct the 2nd respondent to re-conduct the enquiry duly supplying the relevant documents by paying all the benefits including salary etc.

Counsel for the Petitioner: MR.J.M.NAIDU

Counsel for the Respondents: MR.P.VINAYAKA SWAMY

The Court made the following:

THE HON'BLE MR JUSTICE B.PRAKASH RAO

WRIT PETITION NOs.15078, 7784 and 779 of 2004 and 26603 of 2003

COMMON ORDER:

Heard Sri J.M.Naidu, the learned counsel appearing for the petitioner in all the four Writ Petitions and Sri P.Vinayaka Swamy, the learned standing counsel appearing on behalf of the

respondent-Corporation.

Having regard to the common questions involved and at the request of the learned counsel on both sides, all the four Writ Petitions are taken up for disposal.

The petitioner herein, who has been working as a Conductor with the respondent-corporation, faced a disciplinary enquiry with regard to certain irregularities which have been found during the check made on 09.07.2002 while she was conducting bus. This was followed by a charge sheet dated 23.07.2002, whereupon the petitioner has sought for certain documents to be furnished to her as per the application, dated 02.08.2002. The petitioner was also placed under suspension. She challenged these proceedings and also the non-supply of the documents, apart from the non-payment of the due subsistence allowances. The petitioner filed certain Writ Petitions in this Court. It is also pointed out that in those Writ Petitions, though the case of the respondent in the counter-affidavit is to the effect that the enquiry is

pending, ultimately after the respondents have passed the final orders of removal on 31.12.2002, once again the respondents have appointed a fresh enquiry officer to go into the charges. It is submitted on behalf of the petitioner that having regard to the stand taken earlier as to the pendency of the enquiry, it is not known as to when, where and how the enquiry was conducted. Admittedly, the petitioner had no opportunity nor the documents as sought for were not furnished. Therefore, the very appointment of the enquiry officer and even subsequently, the order passed for removal on 31.12.2002 itself shows that there was no proper enquiry and the management has to conduct a fresh enquiry.

During the course of hearing in these Writ Petitions on both sides for parley in regard to the document sought for, the management may supply it. It is represented that out of some documents sought for, some were already supplied to the petitioner. Be that as it may, the fact remains that there was no proper enquiry nor there was any sufficient opportunity much less for supply of all the documents as sought for by the petitioner.

The learned standing counsel appearing on behalf of the respondent-Corporation submitted that it is only the relevant document, which was already served to the petitioner and all the other documents are not relevant.

The relevancy aspect cannot be gone into at this stage. However, it is not the case that the petitioner is seeking any unconnected documents. It is needless to reiterate that during the course of enquiry, necessarily the management has to supply all the documents, of which they are the authors, to the petitioner/delinquent, especially when they are trying to place reliance on them during the course of enquiry and to

come to any decision or finding there on. Without supply there of, any finding given cannot be used against such delinquent. In the circumstances, it would suffice the interest of justice to direct the respondents herein to conduct a fresh enquiry by providing sufficient opportunity to the petitioner and also by supplying all the documents of which the petitioner is not the author and which are sought to be placed reliance during the course of the enquiry. For such course, both sides have agreed and it is also to be in the interest of both parties for an early completion of the enquiry rather than keeping the enquiry pending at this point of time.

All the four Writ Petitions are accordingly disposed of, directing the respondents to conduct and complete the enquiry within a period of three months from the date of receipt of a copy of this order, after giving sufficient notice and opportunity to the petitioner as well and also supply all the documents as sought for by the petitioner. It is needless to mention that the documents, if any, asked by the petitioner of which the petitioner himself is the author need not be supplied. It is now represented that the suspension order of the petitioner was already revoked and however, the petitioner will be entitled to the subsistence allowance as per the regulations for the entire period of suspension. The period of suspension and other aspects shall be considered at the final stage.

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(B.PRAKASH RAO, J)

22nd February 2005

RRB

ASSISTANT REGISTRAR

//True Copy//

SECTION OFFICER

Copy To:

1. The Depot Manager, APSRTC, Chittoor-I Depot, Chittoor, Chittoor District.
2. The Assistant Manager (Enquiries), Regional Manager's Office, APSRTC, Tirupati, Chittoor District..
3. The Managing Director, APSRTC, Azamabad, Musheerabad, Hyderabad.
4. Two CD copies.